



City of Rockville

MEMORANDUM

February 18, 2009

TO: Scott Ullery, City Manager

FROM: T. N. Treschuk, Chief of Police

SUBJECT: Criminal Justice Policy Change

As you know, the County Police, with the approval of Mr. Leggett, just changed their stance on how to deal with the notification process to Federal Immigration Officials on individuals who commit specific violent crimes in Montgomery County. In essence, the new County policy is that the Federal Immigration and Custom Enforcement Department (ICE) will be notified of any and all persons arrested and charged with violent crimes (as defined in the Maryland Criminal Code Section 14-101) or when arrested and charged with handgun violations (as defined in Maryland Criminal Code Section 4-203). This policy outlines that the County Police role is to simply notify ICE of the names of any and all arrested who have been charged with violent crimes and/or a specific handgun violation. Any further actions after this notification would be the responsibility of ICE.

A copy of Mr. Leggett's February 10, 2009 memorandum to the County Police Chief authorizing this change is attached. I have also included copies of the proposed county police internal directives addressing this change in policy, and copies of some recent news articles on this change.

I have always been a firm believer in trying to ensure that we match policies as much as practical and possible with the County Police. I think it is important that we all try to handle situations the same, and that we have a united front on how all the police departments in Montgomery County operate, and in ensuring that the public is aware of this consistency.

After careful review and consideration, it is felt that:

- The new county policy does not allow or condone an individual person's legal status inside the country to serve as a basis for arrest or detention. The policy is consistent in statement and design to allow the police to report the names of all arrested and charged with specific offenses to ICE.

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- The crimes requiring notification are crimes of violence in which the accused (who was charged and arrested based upon probable cause) may represent a threat to a particular segment or the entire community as a whole.
- Consistency of application of a notification process, after lawful arrest, for a violation of existing laws, is neither extraordinary nor contrary to the public trust.

I believe it is right to follow the same practices as the Montgomery County Police on this notification policy. I recommend to the Mayor and Council that we adopt the county policy and stance on the notification process for handling violent offenders.

TNT:mer
Attachments



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

M E M O R A N D U M

February 10, 2009

TO: J. Thomas Manger, Police Chief

FROM: Isiah Leggett, County Executive

SUBJECT: Criminal Justice Policy Changes

One of the most important responsibilities that I have as County Executive is to ensure the safety of our community. I appreciate your outstanding leadership and the exceptional work of the Montgomery County Police Department in helping us to achieve this objective.

I have evaluated your recommendation for a change in our current policy regarding the manner in which we handle violent offenders in the county, some of whom may be undocumented residents. I have also received valuable input from State's Attorney John McCarthy, County Attorney Leon Rodriguez, Correction & Rehabilitation Director Arthur Wallenstein and many others throughout the criminal justice system – on the local, state, and federal levels. In addition, I received considerable feedback and information from a broad range of County residents and organizations reflecting a variety of perspectives on this important recommendation.

After careful consideration, I have concluded that the following should reflect our new approach on this matter. The names of all persons arrested and charged in Montgomery County for crimes of violence, as defined in the Maryland Criminal Law Code Section 14-101, or for wearing, carrying or transporting a handgun (Maryland Criminal Law Code Section 4-203) will be forwarded to the Federal Immigration and Customs Enforcement (ICE). As has been our practice, Montgomery County police will not conduct immigration status investigations.

J. Thomas Manger
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Montgomery County police's role under these circumstances is to simply notify ICE of arrestees charged with violent crimes and the specific handgun violation in our custody and allow ICE to perform their duty from that point forward. Our police will not differentiate among the violent offenders falling into this new policy when charged. They would report the names of all those arrested and charged for these offenses to ICE. My understanding is that this new procedure would forward, on average, about three names per day.

Among the violent offenses included under this policy are murder, rape, carjacking, and defined classes of assaults, sexual offenses, arson, and robbery. The handgun provision would broadly cover those persons in illegal possession of a handgun. The list of offenses covered is attached.

This new policy can assist the county in helping to keep violent offenders off the streets. We can accomplish this without our officers becoming federal immigration police or crossing the line into "profiling" individuals based on their race or ethnicity. I strongly believe that local jurisdictions such as Montgomery County should not substitute their law enforcement efforts for what can only be described as a failure of the federal government to achieve a workable immigration policy.

As you know, currently, if a person is arrested or questioned by county police officers, the individual's name is checked with the National Crime Information Center for any warrant. If there is an outstanding warrant, we detain that person and notify the appropriate law enforcement agency, including ICE. The changes we are adopting in this new procedure will not alter our current policy of checking for outstanding warrants through the National Crime Information Center.

I recognize that some in our community may think that the approach outlined in this response to you goes too far; others may conclude that it does not go far enough. I believe this approach is balanced and realistic for our highly diverse community of nearly one million residents.

Let me share with you what influenced my decision on this matter. First and foremost it is a priority of this administration that our police department facilitates safe and sustainable communities where every resident is encouraged to interact positively with the police. The men and women of our police department have made great strides in earning the trust of the community and we need to ensure that they continue to operate in such a manner that maintains that trust and confidence of all of our residents.

I have heard from those who have so thoughtfully and passionately advocated that we totally remove our county's law enforcement from issues involving immigration. I do not believe it is a good use of our county police resources to enforce federal immigration law. I remain opposed to the 287(g) training for our police.

J. Thomas Manager
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Frankly, no one wants violent criminals preying on the community, including the residents of our neighborhoods most heavily populated by immigrants.

I have heard as well from those who feel that this change does not go far enough. I carefully considered even stricter options that were recommended to me from a variety of parties who believe a broader number of crimes should be included in the list of offenses. In addition, others have asked me to consider more questionable policies and legal procedures to reduce violent criminal activity in the county. However, I have concluded that this new approach is a balanced and useful tool that could help us keep some of the more dangerous criminals out of our neighborhoods. I do not believe it is reasonable or would be effective for our county to go further by adopting some of the more restrictive measures found in other communities.

In addition, I also support an effort led by Montgomery County State's Attorney John McCarthy to amend the criteria used by the State Department of Juvenile Justice in making detention decisions on juvenile offenders committing serious crimes.

We have seen, over and over, 16 and 17-year olds who are committing serious felonies being released back into the community while awaiting trial, only to engage in continued criminal activity. Other communities have been able to amend the State's criteria to keep the worst juvenile offenders detained while awaiting trial, and we need to do the same. John McCarthy has also led the way, meeting with State officials to craft a policy that balances the welfare of these young offenders with the safety of the community. I am currently working through our Criminal Justice Coordinating Commission to amend what is called the Risk-Assessment Instrument (RAI), used by the State Department of Juvenile Services (DJS). It is our intention to have an RAI in place that mirrors what Baltimore County is using. This change will help remove some of the most dangerous juvenile offenders from our community.

There is no doubt that the immigration issue is a thorny one on many fronts. The immigration system is broken, and we need common-sense solutions from Congress that are fair and realistic. Until that happens, communities such as Montgomery County find themselves in a difficult situation on a range of issues.

Based on all of the aforementioned factors, I believe adoption of the new procedure you recommended for crimes of violence and illegal handgun possession is warranted.

It is my responsibility to keep our diverse communities as safe as they can be for *all* of our residents. These changes, taken together, will help us advance that goal.



County Police: Change in policy on Immigration Issues
 Terry Treschuk to: Scott Ullery
 Cc: Tim Marsh, Bob Rappoport, Mike England

02/10/2009 04:21 PM

As you know, the County Police, with the approval of Mr Leggett, just changed their stance on how to deal with the notification process of federal Immigration Officials on individuals who commit crimes in Montgomery County.

here is a copy of the Washington Post article.

Montgomery Steps Up Reporting in ICE Efforts

County Defends Plan To Flag All Suspects Of Violent Crimes

By Dan Morse and Nick Miroff
 Washington Post Staff Writers
 Tuesday, February 10, 2009; B01

Montgomery County police will soon start telling federal immigration authorities the names of all suspects they arrest for violent crimes and handgun violations, an approach that reflects growing concerns about illegal immigration and crime but stops short of the broader enforcement efforts used in some counties.

The new policy, expected to be made public today, represents a compromise that could limit its effectiveness, but county leaders say it is key to maintaining the trust and confidence of Montgomery's 277,000 foreign-born residents.

"I believe this approach is balanced and realistic for our highly diverse community of nearly one million residents," Leggett wrote in a memo this week to his police chief, J. Thomas Manger.

Elsewhere in the Washington region, Frederick County and several agencies in Northern Virginia deputize officers to act as immigration agents, questioning suspects about whether they are in the country legally. They also turn over the names of illegal immigrants arrested for any crime, not just violent offenses.

"We're not getting into the immigration investigation business," Manger said yesterday.

Still, the policy marks a shift in a county that has prided itself on its liberal, tolerant leanings. And some Latino advocates remain concerned that any step toward immigration enforcement could entrap people who might not be guilty of local offenses, leading to deportations that could break up families.

Across the country, police are grappling with how to cooperate with federal immigration agents without scaring off crucial witnesses who may have immigration status issues but whose help is crucial to public safety. Reflecting that challenge, local police agencies handle immigration matters differently when it comes to those under arrest.

Just as some counties are more aggressive than Montgomery, other jurisdictions are less aggressive: The District and Prince George's County discourage police officers from asking about immigration status.

Currently, officers in Montgomery routinely check to see whether people they detain have outstanding warrants, a broad search that can turn up immigration warrants. Officials at the county jail fax a list of foreign-born inmates to ICE once a week, and ICE has the authority to run the names through databases to check for expired visas and other violations.

The checks do not detect those who have entered the country illegally and have had no contact with authorities.

Manger began reevaluating the policy last year, when undocumented immigrants were linked to at least two high-profile killings, including the Nov. 1 slaying of an honor student on a county transit bus. By late last month, federal authorities had lodged immigration detainers against eight of 18 people held in the county jail on murder charges, meaning they might seek to deport those suspects after their criminal cases run their course. The detainers do not necessarily mean the suspects are in the country illegally.

The thinking behind Manger's proposal was that if dangerous people are arrested and officers could use their immigration status to get them off the streets, it was worth moving in that direction.

Manger originally proposed a policy that would apply to those arrested for violent crimes or weapons violations. That kind of policy, in theory, could have netted the two men accused of killing the honor student. Months before, one had been arrested on charges linked to carrying a machete down University Boulevard East, and the other for threatening a student and carrying a switchblade.

The policy that Leggett (D) has agreed to applies to those arrested for violent crimes or illegal carrying or transport of handguns. Leggett said yesterday he was concerned that someone carrying a small penknife could get caught up in the policy.

Manger said finding the right cutoff was a "delicate balancing act," but he was ultimately satisfied with the policy.

Leggett, who was lobbied heavily by advocates for immigrants and those seeking tougher enforcement, has said his goal is to give police as many tools as possible to remove dangerous people from the streets. Leggett called the new policy "quite cautious," saying it would yield an average of only three referrals a day to ICE.

The referrals would mean an electronic inquiry or telephone call to ICE's 24-hour help center in Vermont. If that inquiry didn't result in a clear answer from the databases, officials in Vermont could refer the matter to ICE agents in Baltimore.

"I think in many ways, it suggests Montgomery County is more tolerant compared to other jurisdictions," Leggett said.

But officials in counties with more aggressive policies say the efforts aren't about intolerance; they're about the best way to identify illegal immigrants who commit crimes.

In Frederick, Prince William and Loudoun counties and about 50 other jurisdictions nationwide, local departments have entered into so-called 287(g) partnerships with federal immigration agents. The program provides special training and access to federal databases.

Lt. Michael Cronise, who runs the program at the Frederick jail, said immigration issues are so complex that his officers could not evaluate suspects' claims if they did not have the training. He recalled one instance in which a suspect thought he was in the country illegally, but a check by Cronise revealed he was not.

He said Montgomery's proposal is better than doing nothing, "but there are more things available."

James Pendergraph, a former ICE official who coordinated the agency's work with state and local governments, said Montgomery's approach would leave them too dependent upon overworked federal agents to start immediate investigations.

"I think it's maybe a good quarter measure," he said. "You're going to have too many fall through the cracks."

Police and prosecutors, however, say a more aggressive policy could drive witnesses and victims underground, ultimately making Montgomery less safe.

"We've spent years trying to build up their trust and faith," said State's Attorney John McCarthy. "I'm not sure federalizing our local police is the way to go."

A group of Latino advocates earlier told Leggett that any movement toward more cooperation with federal agents could spread fear through immigrant communities and undermine a relationship built over many years. They said the two men charged with murder in the killing of 14-year-old Tai Lam on the bus were arrested after police received tips from immigrants.

"When you jeopardize trust, public safety pays a price," said Grace Rivera-Oven, host of a local Spanish-language television show.

Advocates also say the proposal would not have prevented another high-profile killing last year by an alleged illegal immigrant, the slaying of a 63-year-old woman in her Bethesda home. The man charged in that case had not been previously arrested in Montgomery. Montgomery police acknowledge that they don't know whether undocumented immigrants are responsible for a disproportionate amount of crime."

Wednesday, Feb. 11, 2009

ICE to get names of all charged with violent crimes

New policy prompted by two killings, allegedly at the hands of illegal immigrants

by Sebastian Montes, C. Benjamin Ford and Janel Davis | Staff Writers

Montgomery County Executive Isiah Leggett has ordered county law enforcement officials to send the names of all people arrested and charged with violent crimes and any gun violation to federal immigration agents to see if they want to hold them, easing concerns over racial profiling of immigrants.

Leggett (D) announced the rules Tuesday after months of uproar sparked by two killings allegedly committed by suspects who were in the country illegally.

"The names of all persons arrested and charged in Montgomery County for crimes of violence ... or for wearing, carrying or transporting a handgun ... will be forwarded to the Federal Immigration and Customs Enforcement," Leggett wrote in a Feb. letter to Police Chief J. Thomas Manger. "As has been our practice, Montgomery County police will not conduct immigration status investigations."

Based on the number of people charged with the crimes last year, Leggett said that an average of three names a day will be sent to ICE.

Pursuing a separate policy change unveiled Tuesday, Leggett and Montgomery County State's Attorney John McCarthy have asked the state juvenile justice officials to allow the county to keep "the worst juvenile offenders" in custody while they await trial, Leggett wrote in the letter. Their goal is to allow Montgomery County to "mirror" the stricter criteria that Baltimore County uses to determine whether to release a juvenile suspect pending trial.

McCarthy attributed "a large portion" of the county's 7.7 increase in crime in final quarter of last year to young offenders.

"We have catalogued a number of occasions...where violent offenders were allowed to remain in the community and they repeated their crimes," McCarthy said.

The tougher standards will focus especially on gang activity, robbery and auto theft, he said. Simple assaults would not fall under the policy, he said.

Before police can begin sending names to ICE, the policy must be distributed to county officers, Manger said.

"It actually could take a month, but realistically I think it'll be about a week," he said.

The unexpected change was met with guarded optimism that it will be treat immigrants fairly.

"We think the proposed policy change is a good compromise," said Kerry O'Brien, head of the legal department for Casa of Maryland, the state's largest immigrant advocacy group. "... Mr. Leggett had policy options that could have been a lot worse for the immigrant community, and we appreciate that he exercised restraint."

She was not familiar with any other jurisdiction taking a similar approach.

"It does go a long way toward allaying concerns of racial profiling," O'Brien said. "... But there are innocent people who are going to get caught up... That person is not a criminal; the community is no safer because of that."

"I have not seen anything like this," said Ajmel Quereshi, an ACLU attorney that is leading a probe into the immigration-related policies of all of Maryland's counties and the city of Baltimore.

Anne Arundel County "essentially" sends in the names to ICE for all crimes and Frederick County's police are deputized by federal authorities to enforce all immigration laws. Prince George's County and the District of Columbia do not check immigration status.

Though the ACLU is always concerned about any policy where local police officers partner with federal agents, Leggett's course does not raise any concerns of profiling, Quereshi said.

"Not on its face, certainly no," Quereshi said.

Other communities in the county say they are not going to follow the county's policy.

Chevy Chase Village Police Chief Roy A. Gordon said his department will continue to operate as before. When officers come across an ICE detainer during warrant checks, they will continue to enforce it, he said. But the 11 officers with the department will not be sending in names in to ICE.

"I wouldn't comment on the county changing their policy," Gordon said. "It's always difficult when you get one or two individuals responsible for a heinous or serious crime, but that doesn't mean all the illegals are committing serious crimes. You can't use that broad paint stroke to say they're all criminals."

Takoma Park Police Chief Ronald Ricucci said his department will not change its policy.

"It's not on the table at all," Ricucci said. "We'll continue to do our arrests our way. We will continue to follow our sanctuary law."

Gaithersburg Police Chief John King said Tuesday that he had not reviewed the county's new policy, but intends to run it by city leaders. Rockville City Police Chief Terrance N. Treschuk said he will review the policy with the city manager for a decision.

The county Department of Corrections will continue its policy of sending ICE a list of inmates every week. Those inmates would include people arrested by Chevy Chase, Takoma Park, Rockville or Gaithersburg police.

Several Montgomery County Council members said they thought Leggett struck a good balance.

"This does not affect how witnesses are treated and does not affect people arrested for minor offenses," said Council President Philip M. Andrews (D-Dist. 3) of Gaithersburg. "It is prudent to do."

Councilman Marc Elrich (D-At large) of Takoma Park said that some residents wanted Leggett to go further, but he thought Leggett was correct "where he is."

Leggett said the county officials have not spoken "directly" to ICE, but with only about three cases a day

falling under the new criteria, the new policy should not be a problem for the federal agents to keep up with.

In 2007, ICE issued 172 criminal holds for people held at the detention center, said Art Wallenstein, director of county corrections. Last year, that increased to 274. ICE has issued 68 criminal holds this year. Wallenstein said he did not know why the number was increasing so rapidly.

Calls and e-mails to an ICE spokeswoman Tuesday were not returned by deadline.



DEALING WITH FOREIGN NATIONALS

FC No.: 520
Date: XX-XX-XX

regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

Contents:

- I. Policy
- II. Questioning of Foreign Nationals/Arrest Policy
- III. Foreign Nationals as Victims/Witnesses
- IV. Arrest Procedures
- V. Consular Relations
- VI. Contact Information
- VII. CALEA Standards
- VIII. Proponent Unit
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I. Policy

All individuals, regardless of citizenship, are entitled to basic rights and privileges which are set forth in common law, state and federal law, and the Maryland and United States Constitutions. In addition, foreign nationals (persons who are not U.S. citizens) may be entitled to rights and privileges set forth in the Vienna Convention and other international laws. It is the policy of the department to provide service to all persons and to exercise its duties in conformance with all applicable laws, regardless of citizenship status, nationality, or racial/ethnic background.

II. Questioning of Foreign Nationals/Arrest Policy

A. Questioning of Foreign Nationals

The indiscriminate questioning of foreign nationals about their citizenship status (possession of their "green card") without a reasonable basis for suspicion of state/local traffic or criminal charges is unconstitutional according to Supreme Court decisions. Officers may ask a person who is under arrest about their citizenship for the purpose of complying with the Vienna Convention. (See Section IV)

B. Authority to Arrest

Officers have no statutory authority to enforce violations of federal immigration laws. If any foreign national is arrested, the arrest must be based on a confirmed warrant or on state/local traffic or criminal charges.

C. Participation in ICE Raids

MCP officers are permitted to assist ICE agents when officers have been assigned to a task force or a joint criminal investigation involving ICE agents when the primary focus of the task force or investigation is not federal immigration violations. Examples include, but are not limited to, customs violations, money laundering, narcotics cases, hate crimes, human trafficking, and terrorist activities. Even in these circumstances, officers shall obtain authorization from an Assistant Chief or the Director, SID, prior to participating in an ICE raid. Other exceptions may be made on a case by case basis. Nothing in this order prohibits officers from responding to or being on the scene of any federal warrant service in order to maintain safety in exigent circumstances.

D. Traffic Violations

If an individual who is stopped for a traffic violation is not wanted for other charges and has a valid permit, the individual should be treated the same as any other violator and not be subjected to arrest or further questioning because of nationality. Without reasonable suspicion of criminal activity, the individual must not be detained longer than necessary for the traffic stop to be completed.

E. Confiscating Immigration Documents

Generally, officers do not have authority to confiscate Resident Alien Cards (a.k.a. “green cards”) or Employment Authorization Cards without the express authorization of an ICE official. If an officer has probable cause to believe that immigration documents are altered or counterfeit with fraudulent intent, the officer is permitted to confiscate those documents and to place charges as appropriate for the possession of fraudulent government identification documents (CR 8-303 of the Maryland Annotated Code).

III. Foreign Nationals as Victims/Witnesses

- A. A police report/investigation is not contingent upon a person’s citizenship. Department employees shall provide service to all persons regardless of their citizenship status.
- B. If it becomes known that a victim or witness who is essential to a case is facing deportation, officers may request that ICE delay the deportation by forwarding their request in writing through the Office of the Chief. If the victim/witness has a criminal history, chances are reduced that ICE will approve such a request. Any approval by ICE to delay deportation does not constitute employment authorization or confer any benefit upon the victim/witness.

IV. Arrest Procedures

When foreign nationals are physically arrested, officers will follow the procedures in this section.

- A. The United States is obligated under international treaties and customary international law to notify foreign authorities when foreign nationals are arrested or otherwise detained in the United States. Officers shall:
 - 1. Promptly inform the foreign national of the right to have their government notified concerning their arrest/detention.
 - 2. If the foreign national asks that such notification be made, do so without delay by informing the nearest consulate or embassy and note that fact in the event report. Consulate phone numbers can be obtained at each district station, ECC, and CPU. Also, officers may obtain assistance and advice from the U.S. Department of State’s 24-hour Operations Center at (202) 647-1512.
 - 3. In the case of certain countries, such notification must be made without delay regardless of whether the arrestee/detainee so wishes. A list of these countries can be obtained at each district station, ECC, and CPU.
- B. The arresting officer will notify ICE by telephone (refer to section VI) as soon as possible after the arrest ***for specific offenses, (see IV D),*** and provide the following information:
 - 1. Full name of the arrested subject
 - 2. Date and place of birth
 - 3. When and where the foreign national entered the United States (if known)
 - 4. Charges against the foreign national or the reason for the arrest
 - 5. The registered alien file number (this number appears on the Resident Alien Card or “green card” issued to registered resident foreign nationals and should be in their possession). If no card is available, ICE will advise the officer of what action to take. The Resident Alien Card is known by many as a “green card,” however the color of the card depends on the date it was issued.

- C. The arresting officer's report will include:
1. A statement that the person arrested is in fact a foreign national.
 2. The name of the ICE investigator and the date and time notified.
 3. Registered alien file number, if available.

D. Offenses requiring notification to ICE

1. *Child Abuse, physical, 1st degree, CR §3-601*
2. *Child Abuse, sexual, CR §3-602(b)*
3. *Arson, 1st degree, C, §6-102(a)*
4. *Assault, 1st degree, C, §3-202*
5. *Unlawful use of handgun in commission of felony or crime of violence, 1st offense, CR §4-204(b)(2)*
6. *Unlawful use of handgun in commission of felony or crime of violence, CR §4-204(B)(1)*
7. *Child Abduction, Child under 12, CR §3-503(a)(1)*
8. *Kidnapping, Child under 16, CR §3-503(a)(2)*
9. *Kidnapping, Generally, CR §3-502(a)*
10. *Manslaughter, voluntary, CR §2-207*
11. *Murder, 1st degree, CR §2-201(a)*
12. *Murder, 1st degree, attempted, CD §2-205*
13. *Murder, 2nd degree, CR §2-204(a)*
14. *Murder, 2nd degree, attempted, CR §2-206*
15. *Abduction, Child under 16 for immoral purposes, CR §11-305(a)*
16. *Carjacking, Unarmed, CR §3-405(b)*
17. *Carjacking, Armed, CR §3-405(c)*
18. *Robbery, CR §3-402(a)*
19. *Robbery With a Dangerous or Deadly Weapon, CR §3-403(a)*
20. *Rape, 1st degree, CR §3-303(a)*
21. *Attempted Rape, 1st degree, CR §3-309(a)*
22. *Rape, 2nd degree, CR §3-304(a)*
23. *Attempted Rape, 2nd degree, CR §3-310(a)*
24. *Sex Offense, 1st degree, CR §3-305(a)*
25. *Attempted Sexual Offense, 1st degree, CR §3-311(a)*
26. *Sex Offense, 2nd degree, CR §3-306(a)*
27. *Attempted Sexual Offense, 2nd degree, CR §3-312(a)*
28. *Wearing, Carrying, or Transporting Handgun, CR §4-203*

V. Consular Relations

- A. Consul officers should be given timely notification concerning the death of a foreign national and disposition of the deceased's property.
- B. When requested, assistance should be given to any consul in ascertaining the whereabouts of their citizen. This does not include disclosing any information obtained through MILES or NCIC. This information is restricted to law enforcement only.

VI. Contact Information

A. Immigration and Customs Enforcement (ICE)

When seeking information from or making notifications to ICE, the following numbers should be used:

1. Officers are encouraged to seek assistance 24 hours a day from the ICE Law Enforcement Support Center (LESC) at 1-802-872-6020. They can also be contacted by sending a message via NCIC.
2. The agents at the Baltimore Field Office can be reached at (410) 962-7449 (0800-1630 week days).

B. U.S. Department of State

FC No.: 520

Date: 09-04-08

The U.S. Department of State's 24-hour Operations Center can be reached at (202) 647-1512.

C. Document Notification

If assistance was requested or a notification was made from either ICE or the U.S. Department of State, a notation should be made in the incident report.

VII. CALEA Standards: 74.3.1

VIII. Proponent Unit: Vice & Intelligence Section

IX. Cancellation

This directive cancels Function Code 520, dated.

J. Thomas Manger
Chief of Police

PROCESSING ARRESTED PERSONS

FC No.: 513

Date: XX-XX-XX

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

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- II. Precautionary Measures
- III. Processing Arrested Adults
- IV. Arrest/Detention Without Charging
- V. Processing Arrested Juveniles
- VI. Disposition of Arrested Juveniles
- VII. Proponent Unit
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- Appendix A: Adult Arrest Processing Chart
- Appendix B: Juvenile Arrests and Citations Checklist
- Appendix C: MCP 50, "Advice of Rights Form"

I. Miranda Rights (CALEA 1.2.3.a, b)

A. Advice of Miranda Rights

1. The Maryland Court of Appeals has ruled that any person under arrest who will be charged as an adult must be presented to a court commissioner without delay. There are few exceptions to this ruling. The appearance may be delayed to conduct administrative functions such as recording, fingerprinting, and photographing. However, a defendant must waive the right to an immediate appearance before the commissioner prior to the officer asking questions. The revised MCP 50, "Advice of Rights Form," (dated 08/03) contains a waiver of presentment and has been approved by the State's Attorney's Office. Failure to use the revised MCP 50 may result in any statements obtained from a defendant being suppressed.
2. Advise individuals of their Miranda rights only when they are in custody (under arrest) and subject to interrogation. Give Miranda rights prior to questioning to ensure the statement's admissibility.
3. Confer with the investigator prior to any questioning or advising Miranda rights when a person is taken into custody for a crime that requires the immediate notification/response of an investigative unit (refer to FC 611, "Follow-up Investigation Responsibility").
4. Carefully document unsolicited comments/ statements made by a person under arrest who has not been advised of Miranda rights. Note the location/date/time of any such statement, sign the document, and include in the case file.
5. Non-custodial interviews (questioning of suspects not under arrest; questioning during a traffic stop or Terry stop; questioning of witnesses; etc.) do NOT require advising of Miranda rights.
6. Do not advise an arrested person of their Miranda rights if there is no intention to question the person.
7. Whenever possible, use the MCP 50, "Advice of Rights Form," when Miranda rights are advised.

8. The court may be called upon to determine when custody began and whether an officer's words or conduct constituted interrogation in a given criminal case. Suggested guidelines for a non-custodial interrogation are:
 - a. Attempt to interview persons at their homes or away from the police facility.
 - b. If a person must be interviewed at the police facility, have the person drive to the facility.
 - c. When interviewed at the police facility, note that the person was informed that the person was free to leave.
 - d. Always document the circumstances of the interrogation.
 9. If an officer is uncertain how the court will view the incident (custodial or non-custodial, interrogation, or initiated by the defendant), it is recommended that the officer advise the person of the person's Miranda rights to ensure the statement's admissibility.
- B. Advice of Rights Form (MCP 50)
1. Officers must use an MCP 50 with a revised date of 08/03 or later. (Appendix C)
 2. Complete the MCP 50 in triplicate:
 - a. Retain the original.
 - b. Attach copy #2 (yellow) to the arrest report. The Report Review Unit will forward copy #2 to the State's Attorney's Office.
 - c. Give copy #3 (pink) to the defendant.
 3. Read the MCP 50 verbatim. Note all remarks/tacit responses to the questioning alongside the corresponding question. Use plain paper for additional comments with corresponding numbers for each item.
 4. Record the defendant's physical condition (any alcohol/drug *use* and time last used), educational level, date/time of arrest, and date/time the MCP 50 was completed.
 5. The officer will sign the MCP 50 and request the defendant to sign; however, the defendant's signature is not necessary.

II. Precautionary Measures

- A. Officers will secure all firearms and knives in the designated gundrop prior to processing or interrogation.
- B. Immediately upon arrival at the processing facility and prior to any processing or interrogation, conduct a thorough search of the arrested person to ensure officer and prisoner safety. This is in addition to the normal search incident to arrest.
- C. Prisoners will not be left unattended at any time, except when placed in a holding facility cell in accordance with FC 810, "Department Holding Facilities." Prisoners will remain handcuffed in processing areas.

III. Processing Arrested Adults (CALEA 1.2.5)

- A. Prisoners will be searched and transported to the Central Processing Unit (CPU) in accordance with FC 811, "Handling, Searching, and Transporting of Prisoners."
NOTE: Prisoners may be transported to a district station/investigative section if it is deemed necessary to further an investigation.
- B. Arrests Based on Warrants
After an arrest based on a confirmed active criminal arrest warrant, complete a CPU 513B (grey envelope) in its entirety, front and back. After a traffic warrant arrest, complete a CPU 513A (brown envelope) in its entirety. Turn completed envelopes over to the correctional officer at the booking desk.
 1. If the charge is an outstanding traffic warrant or an out of county criminal warrant, immediately return to duty. No event/supplement report is required.
 2. If the charge is an outstanding Montgomery County criminal arrest warrant and related to a previously reported event, complete the appropriate supplemental report and return to duty.

3. If the charge is an outstanding criminal arrest warrant from another state (Fugitive from Justice - 2752), obtain a CR# and complete an event report.

C. On-View Criminal Arrests

After making an on-view adult criminal arrest:

1. Complete a CPU 513 (yellow envelope) in its entirety, front and back. The name of the officer completing the DC/CD4, "Statement of Charges (SOC)/Statement of Probably Cause (SPC)," must be listed on the booking envelope as the arresting officer. The front of the form bearing the bar code will be photocopied and retained by the arresting officer. Turn the CPU 513 over to the correctional officer at the booking desk.
2. Proceed to a second floor ABS computer station and complete the SOC/SPC. Instructions on how to use the ABS are posted at each workstation. If assistance is needed, contact a correctional officer.
3. After locking the charging documents, the ABS will print five copies of the SOC/SPC, two witness summons forms, and two advice of rights forms.
 - a. Sign the court, state's attorney, and defendant copies of the documents and cepi the two witness summons forms. Give these documents, as well as the unsigned applicant copy of the SOC/SPC to a correctional officer.
 - b. Due to limited space, event/supplement report writing will not be done at CPU.
 - c. The ABS witness summons forms do not provide adequate information. Therefore, the MCP 107, "State's Attorney's Witness Information," and the MCP 107A, "State's Attorney's Evidence Information," are still required. The MCP 107 must be completed for both District and Circuit Court cases. In the space provided for the tracking number, use the ABS-generated tracking number.
4. *Notify ICE whenever an arrest is made for the following offenses, (regardless of the persons country of origin);*
 1. *Child Abuse, physical, 1st degree, CR §3-601*
 2. *Child Abuse, sexual, CR §3-602(b)*
 3. *Arson, 1st degree, C, §6-102(a)*
 4. *Assault, 1st degree, C, §3-202*
 5. *Unlawful use of handgun in commission of felony or crime of violence, 1st offense, CR §4-204(b)(2)*
 6. *Unlawful use of handgun in commission of felony or crime of violence, CR §4-204(B)(1)*
 7. *Child Abduction, Child under 12, CR §3-503(a)(1)*
 8. *Kidnapping, Child under 16, CR §3-503(a)(2)*
 9. *Kidnapping, Generally, CR §3-502(a)*
 10. *Manslaughter, voluntary, CR §2-207*
 11. *Murder, 1st degree, CR §2-201(a)*
 12. *Murder, 1st degree, attempted, CD §2-205*
 13. *Murder, 2nd degree, CR §2-204(a)*
 14. *Murder, 2nd degree, attempted, CR §2-206*
 15. *Abduction, Child under 16 for immoral purposes, CR §11-305(a)*
 16. *Carjacking, Unarmed, CR §3-405(b)*
 17. *Carjacking, Armed, CR §3-405(c)*
 18. *Robbery, CR §3-402(a)*
 19. *Robbery With a Dangerous or Deadly Weapon, CR §3-403(a)*
 20. *Rape, 1st degree, CR §3-303(a)*
 21. *Attempted Rape, 1st degree, CR §3-309(a)*
 22. *Rape, 2nd degree, CR §3-304(a)*
 23. *Attempted Rape, 2nd degree, CR §3-310(a)*

- 24. *Sex Offense, 1st degree, CR §3-305(a)*
- 25. *Attempted Sexual Offense, 1st degree, CR §3-311(a)*
- 26. *Sex Offense, 2nd degree, CR §3-306(a)*
- 27. *Attempted Sexual Offense, 2nd degree, CR §3-312(a)*
- 28. *Wearing, Carrying, or Transporting Handgun, CR §4-203*

When making notifications to ICE, the following numbers should be used:

- 1. *Officers are to seek assistance 24 hours a day from the ICE Law Enforcement Support Center (LESC) at 1-802-872-6020. They can also be contacted by sending a message via NCIC.*
- 2. *The agents at the Baltimore Field Office can be reached at (410) 962-7449 (0800-1630 week days).*

D. Bond Alert Form (MCP 108)

- 1. The MCP 108 may be used to recommend that a defendant being held pending bond review not be released.
- 2. The MCP 108 will be used in all cases where the use of a firearm was involved in the commission of a crime.
- 3. The MCP 108 can be used at the officer's discretion for any other offense and will be screened for appropriateness and signed by the officer's supervisor prior to transmission.
- 4. Fax the form to the State's Attorney's Office (SAO) at (240) 777-7413 as soon as possible after arrest. The MCP 108 and the fax receipt will be kept on file with the station copy of the report. The report will reflect that the MCP 108 was sent to the SAO.
- 5. A copy of the MCP 108 will be placed in the MCP 513 envelope. When the defendant appears before the commissioner, the SPC/SOC documents as well as the MCP 108 will be presented to the commissioner.

E. Defendants Charged with Companion Criminal and Traffic Charges Arising from the Same Event

- 1. Follow processing procedures in sections III.A, B, and C.
- 2. Prepare citations for the companion traffic charges. The defendant will not sign the citations.
- 3. Attach the citations marked "Court Copy" and "Court/Defendant's Copy" to the criminal charging document and place into the booking envelope.
- 4. Prepare one SPC including probable cause for both the criminal and traffic charge(s).
- 5. If this is not possible at the initial contact with the suspect/defendant, contact the SAO to consolidate initial charges with those developed later.

F. Traffic Arrests made Pursuant to State Law (CALEA 1.2.5)

- 1. The ABS is currently designed only for criminal charges. Therefore, officers are required to complete a handwritten SPC and Continuation, DC/CR4A, if necessary, and prepare the appropriate traffic citation(s). Do not have the arrestee sign the citation(s). Attach the "Court Copy" and "Court/Defendant's Copy" of the citation(s) to the SPC and give to a correctional officer.
- 2. Officers are urged to take a defendant before a commissioner when a defendant does not furnish satisfactory evidence of identity and the officer has reasonable grounds to believe that the defendant may not be the person the defendant claims to be. In addition to the facts supporting the charge, the SPC form must contain all known facts concerning the defendant's identity, as well as the grounds underlying the officer's doubts or misgivings about the accuracy of the identification presented by the defendant.

IV. Arrest/Detention Without Charging

A. Criminal Arrests, Without Processing or Charging (CALEA 1.2.5)

On occasion, an officer may have probable cause to arrest a suspect but subsequently releases the person without placing charges.

1. If a prior report is on file, write a supplement report detailing the arrest and release in the narrative.
2. If no report is on file, obtain a CR number, and complete a 2938 event report detailing the arrest and release in the narrative. No arrest report or criminal ID will be obtained.

B. High Risk Stops that do NOT End in Arrest

When officers conduct a high risk stop that does not end in an arrest, the officers will:

1. Identify themselves by name and give their business cards to the individual stopped.
2. Provide a full explanation about the reason for the stop to the person stopped and remain with that person until all relevant questions are answered.
3. If requested, give the supervisor's name to the person making the request.
4. Complete a 2938 report.

High risk stops include, but are not limited to, vehicle box-ins, any stop made at gunpoint, proning out a subject, or handcuffing for prolonged periods of time.

V. Processing Arrested Juveniles (CALEA 1.2.5)

A. Miranda Rights (CALEA 1.2.3.a, b; 44.2.2.c)

1. There is no absolute legal requirement that a parent or guardian be present when officers question a juvenile. However, it is a good practice to attempt to have a parent present so that the parent can offer their child guidance during the interview process. (CALEA 44.2.3.a)
2. The length and conditions of interrogations will be in accordance with current case law. Juvenile interrogations will be reasonable in length. During lengthy interrogations, provide for rest periods, bathroom breaks, and food and drink, if appropriate. Generally, no more than two officers will interrogate a juvenile. (CALEA 44.2.3.b)
3. The law is clear. There are factors that must be considered in determining whether juveniles understood their rights well enough to intelligently waive them. The effectiveness of the waiver is determined only by examining the "totality of the circumstances" surrounding the giving of the statement.
4. The following circumstances should be considered in weighing whether a waiver is valid:
 - a. Age of the accused
 - b. Education
 - c. Knowledge as to the substance of the charge (if any) and the nature of their rights to consult with an attorney and remain silent (CALEA 44.2.3.c)
 - d. Whether the juvenile is permitted to consult with friends, relatives, attorney, etc.
 - e. If charges are filed, whether the juvenile is to be interrogated before or after formal charges have been filed (in those cases where the juvenile is charged as an adult)
 - f. Methods of interrogation used
 - g. Length of interrogation
 - h. Whether the accused refused to voluntarily give statements on prior occasions
 - i. Whether the juvenile had ever disavowed an out-of-court statement at a later date
 - j. Mental impairment, drug or alcohol use
5. Regardless of the circumstances, interrogations may be conducted without the parent if the parent refuses to be present, is disruptive, or is not available within a reasonable period of time and interrogation cannot be delayed. In these cases, if the juvenile does not seem to understand the juvenile's rights, advise the rights in the presence of a court commissioner and record that fact on an MCP 50 and the event report.

B. Arrest, Processing, and Charging

1. For information on reports, refer to Appendix A, "Juvenile Arrests and Citations Checklist."

2. Promptly transport arrested juveniles to the district station for processing. As soon as practicable, notify the parents/guardians of the arrest and charge(s). Record the date/time of the notification and name of the person notified in the event report as well as the date/time of release and name of the person released to. When parents/ guardians refuse to accept custody of the juvenile, note it in the event report. (CALEA 44.2.2.d, e)
3. Check wanted status via the station terminal.
4. Process all juveniles physically arrested for any criminal offense as follows: (CALEA 44.2.2.d, e)
 - a. Arrest report
 - b. MCP juvenile ID number and identiscope photo
 - c. MSP/MCP fingerprint cards. On the MSP card check the "Juvenile" block and leave the "Charge" block blank.
 - d. Tip and palm prints must be taken for Part I offenses, felony sexual assaults, arson, and felony CDS violations. Place them on the county fingerprint card.
 - e. Required event reports
 - f. MCP 107 and 107A form(s)
 - g. Juvenile Release Form
5. When charging a juvenile on a civil citation (alcohol and tobacco violations only), refer to the MCP Citation Manual to determine eligibility and processing procedures. Forward the original citation to the Family Crimes Division (FCD). (CALEA 44.2.1.b)
6. Whenever a juvenile is charged with a delinquent offense, photocopy any citation, arrest, event, or supplement report, statements, and MCP 107 and 107A prepared in connection with the offense and forward them directly to the FCD, Case Screening Unit, via inter-departmental mail. This will be accomplished within 24 hours from the time the juvenile is arrested, issued a citation, or charged administratively through an exceptional closure and documented in the event report.
7. Per the States Attorney's Office, if a juvenile is arrested for a violation of the criminal law and is also charged with possession of alcohol/tobacco, a citation must be issued for the alcohol/tobacco violation since it is a civil violation. The original copy of the citation must be forwarded to FCD.
8. *Notify ICE whenever an arrest is made for the following offenses, (regardless of the persons country of origin);*

29. *Child Abuse, physical, 1st degree, CR §3-601*
30. *Child Abuse, sexual, CR §3-602(b)*
31. *Arson, 1st degree, C, §6-102(a)*
32. *Assault, 1st degree, C, §3-202*
33. *Unlawful use of handgun in commission of felony or crime of violence, 1st offense, CR §4-204(b)(2)*
34. *Unlawful use of handgun in commission of felony or crime of violence, CR §4-204(B)(1)*
35. *Child Abduction, Child under 12, CR §3-503(a)(1)*
36. *Kidnapping, Child under 16, CR §3-503(a)(2)*
37. *Kidnapping, Generally, CR §3-502(a)*
38. *Manslaughter, voluntary, CR §2-207*
39. *Murder, 1st degree, CR §2-201(a)*
40. *Murder, 1st degree, attempted, CD §2-205*
41. *Murder, 2nd degree, CR §2-204(a)*
42. *Murder, 2nd degree, attempted, CR §2-206*
43. *Abduction, Child under 16 for immoral purposes, CR §11-305(a)*
44. *Carjacking, Unarmed, CR §3-405(b)*
45. *Carjacking, Armed, CR §3-405(c)*
46. *Robbery, CR §3-402(a)*
47. *Robbery With a Dangerous or Deadly Weapon, CR §3-403(a)*

- 48. *Rape, 1st degree, CR §3-303(a)*
- 49. *Attempted Rape, 1st degree, CR §3-309(a)*
- 50. *Rape, 2nd degree, CR §3-304(a)*
- 51. *Attempted Rape, 2nd degree, CR §3-310(a)*
- 52. *Sex Offense, 1st degree, CR §3-305(a)*
- 53. *Attempted Sexual Offense, 1st degree, CR §3-311(a)*
- 54. *Sex Offense, 2nd degree, CR §3-306(a)*
- 55. *Attempted Sexual Offense, 2nd degree, CR §3-312(a)*
- 56. *Wearing, Carrying, or Transporting Handgun, CR §4-203*

When making notifications to ICE, the following numbers should be used:

- 1. ***Officers are to seek assistance 24 hours a day from the ICE Law Enforcement Support Center (LESC) at 1-802-872-6020. They can also be contacted by sending a message via NCIC.***
- 2. ***The agents at the Baltimore Field Office can be reached at (410) 962-7449 (0800-1630 week days).***

C. Crimes for which Juvenile Court has no Jurisdiction (CALEA 44.2.1.c)

- 1. Juvenile court has no jurisdiction in the following circumstances:
 - a. A juvenile 14 years or older who commits a crime which, if committed by an adult, would be punishable by death or life imprisonment:
 - i. First degree murder
 - ii. First degree rape
 - iii. First degree sexual offense
 - iv. Attempt/conspiracy to commit the above
 - b. A juvenile 16 years or older who commits a crime listed above or any of the following crimes:
 - i. Abduction
 - ii. Kidnapping
 - iii. Second degree murder (Criminal Law 2-204)
 - iv. Manslaughter, except involuntary manslaughter
 - v. Second degree rape (Criminal Law 3-304)
 - vi. Robbery with a dangerous or deadly weapon (Criminal Law 3-304)
 - vii. Second degree sexual offense (Criminal Law 3-306)
 - viii. Third degree sexual offense (Criminal Law 3-307)
 - ix. Wearing, carrying, or transporting a handgun under prescribed circumstances (Criminal Law 4-203)
 - x. Unlawful use of a firearm (Criminal Law 5-622)
 - xi. Possession use of machine gun in commission of crime (Criminal Law 4-404)
 - xii. Use of machine gun for aggressive purposes (Criminal Law 4-405)
 - xiii. Sale/transfer of pistol or revolver under prescribed circumstances (Article 27, §445)
 - xiv. Sale/transfer of stolen pistol (Article 27, §446)
 - xv. Possession of short-barreled rifles and short-barreled shotguns (Article 27, §481C)
 - xvi. Wearing, carrying, transporting, or using a firearm during and in relation to a drug trafficking crime (Criminal Law 5-621)
 - xvii. Use of a handgun or antique firearm in the commission of a crime (Criminal Law 4-204)
 - xviii. Carjacking or armed carjacking (Criminal Law 3-405)
 - xix. Assault in the first degree (Criminal Law 3-202)
 - xx. Attempted murder in the second degree (Criminal Law 2-206)

- xxi. Attempted rape (Criminal Law 3-310) or attempted sexual offense in the second degree (Criminal Law 3-312)
 - xxii. Attempted robbery with a dangerous or deadly weapon (Criminal Law 3-404)
 - 3. Charge the juvenile as an adult for all additional charges resulting from an incident listed above.
 - 4. Transport the juvenile charged with one of the above offenses to the CPU and process according to sections III.A, B, and C. Write the following statement in the miscellaneous block of the MCP 513: "No Juvenile Jurisdiction--Treat as Adult."
 - 5. If the criminal case against the juvenile is subsequently remanded to the Department of Juvenile Services (DJS), it is the responsibility of the SAO to notify the Records Division of the change.
- D. Waiver by Juvenile Court
- For certain crimes committed by juveniles, the SAO may petition to waive Juvenile Court jurisdiction and charge the juvenile as an adult. The Juvenile Court will review the request and set a hearing. The arresting officer will receive notice of the hearing and will attend. If a waiver is obtained, officers will:
- 1. Obtain the original waiver documents from the court.
 - 2. Take custody of the juvenile and transport to the CPU. Inform the CPU correctional officer that the defendant is a juvenile charged as an adult.
 - 3. Prepare a SOC and SPC using the ABS. Indicate in the narrative of the SPC that Juvenile Court has waived jurisdiction.
 - 4. Follow the initial processing procedures outlined in sections III.A, B, and C.
 - 5. Write the following statement in the miscellaneous block of the MCP 513: "Juvenile Jurisdiction Waived--Treat as Adult."
 - 6. Attach the original waiver documents to the SOC.
- E. Arrest/Processing Without Charging
(CALEA 1.2.5)
- 1. Fingerprinting and photographing as an investigative aid does not constitute an arrest record for the juvenile. When this occurs, explain to the juvenile's parents that the fingerprints and photographs will be strictly confidential, kept segregated from those of adults, and destroyed upon completion of the investigation. Supervisors will ensure that these files are purged once the investigation is completed.
 - 2. The investigator should retain investigative photographs and fingerprints in the case file; do not send to Records Division. Furthermore, inform the parents that if the juvenile is arrested as a result of these fingerprints and photographs, they will be retained in file until the juvenile reaches the age of 21.
 - 3. When a juvenile is detained but released without being charged, notify the parents. If requested, meet and discuss the matter with the parents. If no report is on file, initiate a 2938 event report detailing the arrest and release in the narrative.

VI. **Disposition of Arrested Juveniles**

- A. Release to Parents (CALEA 44.2.2.d)
- 1. Juveniles will not be released on their own recognizance. Release juveniles to their parents/guardians on a timely basis. If the juvenile's parent/guardian cannot be located, contact DJS for disposition authorization (follow procedures in section VI.B). If the juvenile has committed any of the offenses listed in section VI.B.1, seek to detain the juvenile and coordinate the detention through DJS. DJS personnel and Juvenile Court judges are the only persons empowered to authorize the placement of a juvenile in a detention or shelter facility.
 - 2. If DJS authorizes the release to someone other than the parent/ guardian, list the name of the DJS worker authorizing the release in the report. The full names of the parent/ guardian and the person the juvenile is released to are required in the report.

3. Request verification of identity prior to releasing juveniles into the custody of parents/guardians/relatives. Absent sufficient identification, the release will be coordinated via DJS.
4. Complete a juvenile release form in duplicate and obtain the signature of the parent/guardian to whom the juvenile is released. A copy of the release form will be given to the parent/guardian; the original will be attached to the report. Explain to the parent/guardian and the juvenile involved the circumstances of the offense for which the juvenile is being charged. Additionally, briefly explain the juvenile justice process. (CALEA 44.2.3.c)

B. Detention of Juveniles (CALEA 44.2.2)

1. Initiate detention proceedings when juveniles cannot be released to their parents or they are arrested for any of the below listed offenses. The only exception to this detention procedure would be when the juvenile is charged as an adult.
 - a. Abduction [Criminal Law 3-503(a)]
 - b. Arson in the first degree [Criminal Law 6-102 (a, b, c)]
 - c. Assault in the first degree (Criminal Law 3-202)
 - d. Bomb threat (Criminal Law 6-107)
 - e. Burglary in the first, second, or third degree (Criminal Law 6-202, 203, 204)
 - f. Carjacking or armed carjacking (Criminal Law 3-405)
 - g. Escape (Criminal Law 406, 407)
 - h. Kidnapping [Criminal Law 3-502, 3-503 (a, b, c)]
 - i. Manslaughter (voluntary, common law)
 - j. Murder in the first or second degree [Criminal Law 2-201(a)]
 - k. Possession of explosives/destructive device (Criminal Law 4-503)
 - l. Rape in the first or second degree (Criminal Law 3-303, 3-304)
 - m. Robbery (common law)
 - n. Robbery with a dangerous or deadly weapon (Criminal Law 3-404)
 - o. Sexual offense in the first, second, or third degree (Criminal Law 3-305, 3-306, 3-307)
 - p. Sodomy (common law)
 - q. Attempts to commit any of the above crimes.
 - r. Any offense which, in the officer's opinion, is serious in nature.
2. Between 0800 and 1700 hours:
 - a. Contact an on-duty DJS intake worker at the Juvenile Assessment Center (JAC), 7300 Calhoun Place, Suite 500, Rockville, (301) 279-1580.
 - b. If the arrest was not based on a warrant and detention is authorized, the officer must bring the juvenile to the JAC to be seen by an intake worker. The intake worker will give the officer written authorization to take the juvenile to Noyes.
 - c. If the juvenile is being held on a warrant the officer will take the juvenile directly to Noyes.
 - d. The arresting officer will provide DJS with an MCP 187, "Juvenile Detention Notice," a Circuit Court Affirmation Form (see FC 509, "Juvenile Criminal Arrest Procedure"), and a copy of the arrest and event reports.
3. Between 1700 and 0800 hours:
 - a. Contact the ECC supervisor and request the on-call DJS intake worker call the officer. The officer will provide all pertinent information regarding the case including any injuries to the juvenile and any drug/alcohol use.
 - b. If detention is authorized, the DJS worker will come to the district station to interview the juvenile and give the officer written authorization to transport the juvenile to Noyes.
 - c. Complete an MCP 187, a Circuit Court Affirmation Form, an arrest report, and an event report. Indicate on the event report if additional charges are anticipated.
 - d. Fax a copy of the above documents to DJS at (301) 279-1193 prior to 0800 hours. Do NOT place a copy in the box to the rear of 27 Courthouse Square.
 - e. Transport the juvenile, without unreasonable delay, to Noyes.
4. If the DJS intake worker decides not to place a juvenile in detention/shelter, the parents must accept custody of the child. The parents have no statutory or legal right to refuse custody. If the parents refuse to take custody, the officer should contact Child Protective Services. Inform

the parents that their refusal to take custody may result in a formal investigation being initiated by Child Protective Services. Include in the event report the name of the DJS intake worker who decided not to place the juvenile.

5. Alleged out-of-control or runaway juveniles who are in the home shall not be removed at the request of the parents. If the juvenile has not been charged with a violation of the law, DJS cannot detain for out-of-control or runaway. Being out-of-control is not a chargeable offense, however other options include:
 - a. Open Door provides overnight shelter to runaways. Call (301) 770-0193 or 1-800-486-6736 to establish shelter availability. Juveniles under the influence of drugs or alcohol will not be taken.
 - b. Operation Runaway, Potomac Ridge, 14901 Broschart Road, provides free mental health assessments 24 hours a day, 7 days a week, for runaway and out-of-control juveniles. Both the juvenile and the parent(s) must be present at the facility for the assessment. The staff will counsel juveniles who are under the influence of drugs or alcohol. Violent or incoherent individuals will not be seen. Juveniles may be transported to the facility by the referring officer or by the juvenile's parent(s). In either case, contact the facility at (301) 251-4545 to advise of the juvenile's pending arrival.

VII. Proponent Unit: Policy Development Section

VIII. Cancellation

This directive cancels Function Code 513, effective date 01-29-04.

J. Thomas Manger
Chief of Police